

# EXHIBIT 5

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International Business Machines Corporation*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.,  
Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES  
CORPORATION,

Defendant/Counterclaim-Plaintiff.

**DEFENDANT/COUNTERCLAIM-  
PLAINTIFF IBM'S SIXTH SET OF  
INTERROGATORIES AND SIXTH  
REQUEST FOR PRODUCTION OF  
DOCUMENTS**

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

Pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure, defendant/counterclaim-plaintiff International Business Machines Corporation ("IBM") submits this Sixth Set of Interrogatories and Sixth Request for the Production of Documents to plaintiff The SCO Group, Inc. ("Plaintiff").

Plaintiff is directed to give answers to the written interrogatories separately, fully, in writing, under oath, and in accordance with the following definitions and instructions. Plaintiff is requested to produce the documents and things in its possession, custody or control pursuant to the document requests.

Answers to the interrogatories, and all documents and things responsive to the document requests, must be served on the undersigned attorneys for IBM at the offices of Cravath, Swaine & Moore LLP, 825 Eighth Avenue, New York, NY 10019 within 30 days of service of these interrogatories and document requests.

### **INTERROGATORIES**

#### **INTERROGATORY NO. 23:**

For each and every product licensed, sold and/or distributed by plaintiff, including but not limited to all UNIX and Linux products, please identify with specificity the name, version and release of the product and for each release of the product provide the following information:

- (a) dates of availability;
- (b) number of units licensed, sold or distributed;
- (c) per-unit selling price or fee received;
- (d) revenues received;
- (e) gross profits; and
- (f) incremental, marginal and net pretax or operating profit.

**INTERROGATORY NO. 24:**

For each of the claims asserted by plaintiff in this lawsuit, please describe in detail all of the alleged damages to plaintiff that were proximately caused by IBM, including, but not limited to:

- (a) the amount of alleged damages;
- (b) the basis for the alleged damages;
- (c) the precise methodology by which the damages were calculated;
- (d) documents or other materials relied upon or considered in determining the alleged damages; and
- (d) all efforts undertaken by plaintiff to mitigate the alleged damages.

**DOCUMENT REQUESTS**

**REQUEST NO. 122:**

All documents concerning plaintiff's responses to Interrogatory Nos. 23 and 24.

**REQUEST NO. 123:**

For each and every product licensed, sold and/or distributed by plaintiff or any of its alleged predecessors in interest, documents sufficient to identify:

- (a) the number of units licensed, sold or distributed;
- (b) the per-unit selling price or fee received;
- (c) revenues received;
- (d) gross profits; and
- (e) incremental, marginal and net pretax or operating profit.

**REQUEST NO. 124:**

All documents concerning the projected sales for each and every product licensed, sold and/or distributed by plaintiff or any of its alleged predecessors in interest.

**REQUEST NO. 125:**

Documents, including but not limited to marketing materials and business plans, sufficient to show plaintiff's marketing plans and marketing strategy for the licensing, sale and distribution of its products.

**REQUEST NO. 126:**

Documents, including but not limited to market analyses and reports, sufficient to show plaintiff's assessment of the market size and market share for each of its products versus the market share of its competitors.

**INSTRUCTIONS AND DEFINITIONS**

Defendant/counterclaim-plaintiff IBM hereby incorporates by reference all instructions, definitions and rules contained in Rule 33 and Rule 34 of the Federal Rules of Civil Procedure and the local rules or individual practices of this Court and supplements them with the definitions and instructions set out in Defendant IBM's First Set of Interrogatories and First Request for the Production of Documents, which are incorporated herein by reference.

DATED this 11<sup>th</sup> day of January, 2005.

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 11<sup>th</sup> day of January, 2005, a true and correct copy of the foregoing **DEFENDANT/COUNTERCLAIM-PLAINTIFF IBM'S SIXTH SET OF INTERROGATORIES AND SIXTH REQUEST FOR PRODUCTION OF DOCUMENTS** was delivered to the following:


**By Hand Delivery:**

Brent O. Hatch  
Mark F. James  
HATCH, JAMES & DODGE, P.C.  
10 West Broadway, Suite 400  
Salt Lake City, Utah 84101

**By U.S. Mail, postage prepaid:**

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